



100 Meridian Centre  
Suite 300  
Rochester, NY 14618-3979

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Sr. Director - Regulatory Affairs & Contract  
Management  
Phone: (585) 785-5837  
Fax: (585) 785-5838  
mnighan@afsnetworks.com

February 25, 2009  
Via Overnight Carrier

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Dr.  
Capital Heights, MD 20743

**Re: CY 2008 Annual CPNI Certification  
EB Docket No. 06-36**

Dear Sir/Madam:

As required by 47 C.F.R. §64.2009(e) **American Fiber Systems, Inc.** hereby submits one (1) original and four (4) copies of its CPNI compliance certification for Calendar Year 2008.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Nighan".

Michael J. Nighan  
Sr. Director - Regulatory Affairs & Contract Management

Enclosures

xc: Best Copy & Printing (FCC@BCPIWEB.COM)

No. of Copies rec'd 0+4  
List ABCDE

**AMERICAN FIBER SYSTEMS, INC.**

**CY 2008 Annual Statement of CPNI Operating Procedures**

**Compliance with 47 C.F.R. Section 64.2005 through Section 64.2011**

1. During CY 2008 American Fiber Systems, Inc. ("AFS") offered and provided High Capacity Competitive Local Exchange Carrier telecommunications services, such services falling into the "local" category of service. AFS marketed and provided such service exclusively to Enterprise and Carrier customers and did not market or provided service to residential customers.

2. Although holding a Global Resale International Telecommunications Certificate from the Commission, AFS did not market any form of international service to existing or new customers. Nor did AFS market any form of interexchange service to existing or new customers.

3. Neither has AFS ever marketed or provided any form of Commercial Mobile Radio Service to new or existing customers.

4. Accordingly, CPNI was used by AFS exclusively to market and provide services within the "local" category and AFS did not disclose or permit access to CPNI for the marketing or provision of services outside of the "local" category.

5. Therefore, new or existing AFS customers did not have the ability to subscribe with AFS for services within either the "interexchange" or "CMRS" categories of service and thus it was not possible for AFS to violate the service category customer approval requirements of the CPNI rules.

6. Further, AFS did not use, disclose to third parties, or permit access to CPNI except on an as needed basis for the provision of inside wiring installation, maintenance and repair of customer services, or to protect the rights or property of AFS, or to protect the users of AFS services and other carriers from fraudulent, abusive or unlawful use of

services, such disclosure/access not requiring customer approval. Nor did AFS engage in any marketing campaigns which utilized CPNI.

7. AFS has required all employees to sign an Employee Nondisclosure, Noncompetition and Assignment Agreement ("Agreement") as a condition of employment or continued employment. Under the terms of the Agreement AFS employees are prohibited from divulging confidential information of any customer to any individual or entity outside of AFS. This provision is binding upon employees even after their termination of employment. Furthermore, AFS employees are required to devote their full time efforts to the business of AFS and are explicitly prohibited from engaging in any other business activity that would conflict with their duties to AFS. In the event that an employee violates the Agreement AFS may terminate the employee in addition to any other remedies available at law or in equity.

8. During CY2008 AFS took, and continues to take, reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI:

a) For example, through the use of "firewalls" AFS blocked unauthorized attempts to gain access to corporate systems. In addition, via encryption of CPNI, AFS further reduced the possibility that usable CPNI data could be accessed illegally.

b) Internal access to CPNI was restricted to company employees on a "need-to-know" basis.

c) Direct customer access to CPNI was available only to the customer contact-of-record. In addition, the contact-of-record was required to provide a combination of a randomly-generated password, customer account number and customer invoice number.

d) Notification of customer account changes or requests for replacements for lost or forgotten passwords were accepted only from the customer contact-of-record and AFS immediately notified and acknowledged such a change to the customer via return telephone call or e-mail communication with the customer contact-of-record.

9. Although no CPNI breaches occurred during CY2008, AFS is aware of and will comply with all requirements of 47 C.F.R. Section 64.2011 to notify the appropriate agencies and the impacted customer(s) of any security breach involving CPNI within the prescribed time frames and to maintain the appropriate records.

10. During CY2008 AFS received no complaints relating to the unauthorized release of CPNI.

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**AMERICAN FIBER SYSTEMS, INC.  
ANNUAL 64.2009(e) CPNI  
CERTIFICATE OF COMPLIANCE  
FOR CY 2008  
EB DOCKET 06-36**

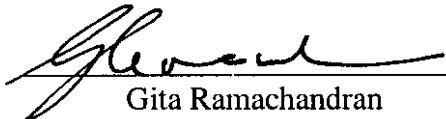
Date Filed: Feb. 20, 2009  
Form 499 Filer ID: 821650  
Name of Signatory: Gita Ramachandran  
Title of Signatory: Chief Financial Officer

I, Gita Ramachandran, certify that I am an officer of the company named above, and acting as an agent of the company, that, based upon reasonable diligence, I have personal knowledge that the company has established operating procedures that are adequate to ensure material compliance with the Commission's Customer Proprietary Network Information rules, 47 C.F.R. §64, Subpart U.

Attached to this certification is an accompanying statement explaining how the company's procedures ensure that the company was in material compliance with the requirements set forth in Section 64.2001 *et seq.* of the Commission's rules during CY2008.

The company has not taken any actions (proceedings instituted or petitions filed by a company at either state commissions, the court system, or at the Commission) against data brokers in the past year.

The company has not received any customer complaints in the past year concerning unauthorized release of CPNI.

  
\_\_\_\_\_  
Gita Ramachandran  
Chief Financial Officer

Date: February 20, 2009

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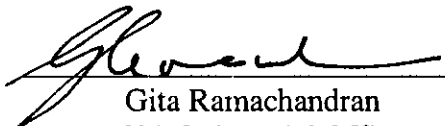
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